

## REMARKS

The Office Action, mailed January 24, 2008, rejected claims 1-2 over *Houston* (U.S. Patent No. 5,318,491) and claims 6-8 and 10-20 over *Dyer* (U.S. Patent No. 4,828,257) under 35 U.S.C. § 102, and claims 3-5 and 9 over *Houston*, *Dyer*, and *Mertesdorf* (U.S. Patent No. 5,137,501) under 35 U.S.C. § 103<sup>1</sup>. In light of the following remarks, reconsideration and allowance for the above-identified application are now respectfully requested. Claims 1-20 are pending.

### **Rejections Under 35 U.S.C. § 102**

In the Office Action, claims 1-2 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Houston*. Applicant respectfully traverses.

*Houston* discloses a "tug of war machine" that includes a "belt loop which is pulled in a generally horizontal direction." *See* Abstract. The "loop 22" can be "moved under controlled resistance" with the use of "a brake or clutch 32" in "accordance with a predetermined program." Col. 3, ll. 39-49, 60-63. The "resistance placed on the loop can be selected to either provide a static pull or a hand-over-hand tug of war-type pulling exercise." Abstract. The tug of war machine also includes an "upright console 12" which "serves as a stationary support for the mechanical components and electronics" of the machine. Fig. 1; Col. 2, ll. 60-64. The console includes "a control panel 29 which allows selection of the parameters, modes," and "exercise programs" to be used with the machine. Col. 3, ll. 24-27; 60-63. The machine further includes "control circuit 50 which is programmed by the individual 12 by means of controls 29." Col. 4, ll. 2-4. The machine can also "provide voice output by utilizing synthesized speech which can provide the individual feedback on his or her performance and can encourage the user in the activity." Col. 5, ll. 14-18.

In contrast to *Houston*, independent claim 1 recites, among other things, "a storage device storing control signals and the voice of a virtual personal trainer, wherein said control signals and said voice of a virtual personal trainer are interrelated, said digital storage device being coupled to said input of said control circuitry whereby said exercise apparatus can be operated within an

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<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

exercise session by varying a resistance of said user engagement mechanism in accordance with said control signals with the accompaniment of said voice of said virtual personal trainer, the exercise session comprising use of a plurality of exercise apparatuses, and said voice of said virtual personal trainer of said exercise apparatus being adapted to provide instructions regarding use of said plurality of exercise apparatuses during the exercise session.”

*Houston* neither teaches nor suggests an “exercise session comprising use of a plurality of exercise apparatuses, and said voice of said virtual personal trainer of said exercise apparatus being adapted to provide instructions regarding use of said plurality of exercise apparatuses during the exercise session” as recited in claim 1. Rather, *Houston* discloses an exercise device, the operating parameters of which can be selectively controlled, and which provides voice data output to a user based on the user’s performance on that specific exercise device.

Accordingly, Applicant respectfully submits that independent claim 1 is neither disclosed in *Houston* nor an obvious variation of the device disclosed therein. Since claim 2 depends from independent claim 1, and therefore, includes the limitations thereof, Applicant respectfully submits that for at least the foregoing reasons, dependent claim 2 is neither disclosed by nor an obvious variation of *Houston*.

The Office Action also rejected claims 6-8 and 10-20 over *Dyer* under 35 U.S.C. § 102(b). Applicant respectfully traverses.

*Dyer* discloses a “system and method for providing an exercise program at a desired pace throughout each repetition and which applies resistance against a user’s efforts based upon user performance history and user demographics.” *See* Abstract. In *Dyer*’s system, a remote central computer (e.g. 150) “is connected via an RS 485 communication link 153 through a two-wire cable set to an interactive weight lifting station.” Col. 10, ll.64-66; *see also* Figure 5. The central computer “comprises a central control device for communicating information regarding individual users, including their personal demographics and past performance history, as well as [the] exercise program” to the weight station, and further “receives modified information such as updated performance histories, and changed exercise programs from the exercise station for storage in a central memory.” Col. 10, ll. 35-44. In this manner, the “system ...automatically produc[es] changes to the user’s exercise program in view of the user’s performance history and demographic or physiological information.” Col. 4, ln. 67 to Col. 5, ln. 2.

The exercise station is equipped with a "central processor unit (CPU) [which] controls the exercise program at each station." Abstract. To perform an exercise program, the central computer "sends...user data...to the appropriate local station." Col. 20, ll. 29-31. Upon "recognizing and accepting a previous user, the exercise station CPU 160 examines all pertinent data, such as previous weight lifted, previous number of repetitions, time since the equipment was last used, demographic information of the user and what kind of results the user is looking for." Col. 16, ll. 7-13. "The CPU [of the exercise station]...refers to a table lookup to obtain a starting weight [which] is based upon information such as age, sex and direction of movement of the equipment." Col. 36, ll. 26-30. The "CPU 160 updates the weight value to be used in the current session, and provides output to the user, telling him the weight and number of repetitions that he should do during this exercise period. Col. 16, ll. 13-17. In particular, the "exercise station includes a voice generator [] which verbally communicates various information such as exercise instructions and performance evaluations to the user" and which "responds to signals received from the CPU 160 to generate selected voice data." Col. 8, ln. 66 to Col. 9, ln. 1; Col. 12, ll. 42-44

In contrast, independent claim 6 recites, among other things, "circuitry electrically coupled to said exertion varying mechanism and being operationally receptive to control signals which are provided in correlation with a voice of a virtual personal trainer ... whereby said exercise apparatus can be operated within an exercise session ... the exercise session comprising use of a plurality of exercise apparatuses, and said voice of a virtual personal trainer of said exercise apparatus being capable of providing instructions regarding use of said plurality of exercise apparatuses." Similarly, independent claim 15 recites "internal circuitry being operationally responsive to digital control signals which are temporally related with a voice of a virtual personal trainer whereby an exercise session can be enhanced with the capability of both varying an exertion and providing said voice of said virtual personal trainer, the exercise session comprising use of a plurality of exercise apparatuses, and said voice of a virtual personal trainer of said exercise apparatus being capable of providing instructions regarding use of said plurality of exercise apparatuses during said exercise session." Further, claim 15 also recites "an external device coupled to said input port, said external device including digital storage provided separately from said exercise apparatus and operative to at least temporarily store said control signals and said voice of said virtual personal trainer together in said digital storage."

*Dyer* neither suggests nor describes an exercise apparatus that is responsive to control signals and which provides the voice of a virtual personal trainer relating not only to the use of that specific exercise apparatus, but which also provides instructions regarding the use of other exercise apparatuses during an exercise session as recited in claims 6 and 15. While *Dyer* does disclose "control signals" generated by the exercise station's CPU and a "voice generator" for generating "voice data," there does not appear to be any suggestion or description of an "exercise session comprising use of a plurality of exercise apparatuses, and said voice of a virtual personal trainer of said exercise apparatus being capable of providing instructions regarding use of said plurality of exercise apparatuses." Additionally, *Dyer* does not teach or suggest "an external device" as recited in claim 15 which includes "digital storage provided separately from said exercise apparatus and operative to at least temporarily store said control signals and said voice of said virtual personal trainer together in said digital storage." Rather, *Dyer* discloses individual exercise devices each having a separate CPU and voice generator for generating control signals and voice data for each of the individual exercise devices.

Accordingly, Applicant respectfully submits that independent claims 6 and 15 are neither disclosed in *Dyer* nor obvious variations of the devices disclosed therein. Since dependent claims 7-8, 10-14, and 16-20 depend from independent claims 6 and 15 respectively, and therefore, include the limitations of the respective independent claim, Applicant respectfully submits that for at least the foregoing reasons, dependent claims 7-8, 10-14, and 16-20 are neither disclosed by nor obvious variations of *Dyer*.

For the record, however, Applicant also respectfully notes that the various dependent claims include further limitations which are also not taught or suggested by *Dyer*. For instance, among other things, *Dyer* fails to teach or suggest: circuitry receiving control signals from a server over a network (claim 10); a server accessed using Internet protocols (claim 11); a digital storage medium separate from the exercise device and coupled to the device by a transmission medium (claim 12); or the external device including a digital processor (claim 16). Accordingly, it is respectfully submitted that claims 6-8, and 10-20 overcome the rejection of record as based on 35 U.S.C. § 102(b).

The Office Action rejected claim 3 over *Dyer*, claims 4-5 over *Houston* in view of *Dyer*, and claim 9 over *Dyer* in view of *Mertesdorf* under 35 U.S.C. § 103(a). Applicant respectfully traverses.

By virtue of their dependence from independent claims 1 and 6, dependent claims 3-5 and 9 include the limitations of their respective independent claim. Applicant, therefore, respectfully submits that for at least the foregoing reasons, dependent claims 3-5 and 9 are neither disclosed by nor obvious variations of *Houston*, *Dyer*, or *Mertesdorf*.

### CONCLUSION

Applicant respectfully submits, therefore, that the present application is now in condition for allowance. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 14<sup>th</sup> day of February, 2008.

Respectfully submitted,

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